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**Honeywell**

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December 10, 2001

*Via Facsimile 202-493-2251**E-mail [dms@NHTSA.dot.gov](mailto:dms@NHTSA.dot.gov)*

National Highway Traffic Safety Administration  
Docket Management, Room PL-401  
400 Seventh Street, SW  
Washington, DC 20590

01 DEC 10 11:31:13  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

**Subject: Docket No. NHTSA 2001-10773; Notice 1 - 11**  
**RIN 2127-A126**  
**Reporting of Information About Foreign Safety Recalls**  
**& Campaigns Related to Potential Defects**  
**Federal Register Dated October 11, 2001**

Dear Sir or Madam:

Honeywell Commercial Vehicle Systems Company, d/b/a/ Bendix Commercial Vehicle Systems (BCVS) is a developer and manufacturer of air brake systems and components for commercial vehicles. BCVS as a motor vehicle equipment manufacturer submits the following response to the National Highway Traffic Safety Administration's (NHTSA) above referenced Notice of Proposed Rulemaking (NPRM). This notice requests comments on Section 3(a) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. This section deals with the reporting of information concerning foreign safety recalls / campaigns. Information / comments regarding scope and terms, contents of notification to NHTSA and timing were requested by NHTSA.

### 1. Definition of "Affiliates"

We believe that there needs to be a definition of "affiliates" that makes clear the relationships that are governed by these rules. It should be noted that a U.S. manufacturer may be owned or controlled by a foreign person or have a joint venture relationship with a foreign entity in which the manufacturer does not control its foreign joint venture partner. In circumstances where the U.S. manufacturer has no control over the foreign entity, there can be no assurance of accurate and timely communications between the entities. More importantly there may not be the appropriate accountability or legal authority to compel actions between the joint venture entities to ensure compliance with the regulations by the U.S. manufacturer. Thus, it is not reasonable to impute reporting requirements to a U.S. manufacturer for the recalls or other actions of a foreign entity over which the U.S. manufacturer has no control.

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We propose a definition of "affiliates" along the following lines:

An "affiliate" of a party is an entity that is controlled by such party. Control occurs when a party has the right, whether based upon equity ownership or contractual right, to elect a majority of the board of directors or other similar board or committee that has the authority to manage and direct the business and affairs of such affiliated entity.

In addition, we urge the agency to delete the term "agent" in the definitions of "other safety campaign" and "safety recall". Agent is a vague concept. We are concerned that a manufacturer may not have sufficient dominion and control over a foreign agent to make such manufacturer responsible for reporting on the agent's foreign recalls or campaigns.

## **2. Definition of "Substantially Similar"**

The references to "substantially similar" components or products should be clarified. Even though a product may appear to be "substantially similar" or even identical to a component or device used in a foreign jurisdiction, such a product may nevertheless have an entirely different functionality or failure mode with an entirely different impact on vehicle safety. Therefore, Honeywell recommends adding to the definition of "substantially similar" the concept of use of the device in a "substantially similar application".

## **3. Contents and Details of Notice**

We note that the definition of "other safety campaign" is very broad. We are concerned that the breadth of this definition may make it practically infeasible to comply with the notification rules. We think the definition of safety campaign should include a concept of a remedial field action to remedy a safety-related issue (like the common meaning of "campaign" in the industry). As currently drafted, the definition of "other safety campaign" merely refers to any communications on how to safely operate, repair or replace the vehicle or equipment. This definition would sweep in a broad spectrum of routine documents such as owner's manuals, service bulletins, maintenance manuals and the like. We suggest that the burdens of compliance would far outweigh any potential benefits to be gained by such a broad requirement.

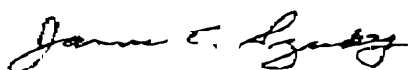
## **4. Timing of Notice**

We recommend that the five-day notice period should take into account all applicable holidays in all foreign jurisdictions that may be impacted by the subject safety recall.

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Please let us know if you have any questions or comments concerning the forgoing.

Very truly yours,

A handwritten signature in cursive script, appearing to read "James E. Szudy".

James E. Szudy  
Manager, Engineering Systems

JES:mea